

**Amendments to the Drawings:**

The attached sheets of drawings, which includes Figs. 3 and 4, include changes to Figs. 3 and 4 and replace the original sheets including Figs. 3 and 4. Please amend reference characters "MPD" and "CP1" and "SD" and "PDP" in Fig.3 as shown in the attached replacement Fig.3. Also, please amend reference characters "SD" and "PDP" in Fig. 4 as shown in an attached replacement Fig.4. Please note that the inclusion of reference characters "DPP" in Fig.4, was the result of an inadvertent an error, and should correctly be shown as reference character "PDP".

Attachment: Replacement Sheet

## REMARKS/ARGUMENTS

As a result of this Amendment, claims 1 and 3-6 are under active consideration in the subject patent application.

In the Official Action, the Examiner has:

- (1) objected to the drawings;
- (2) objected to the abstract;
- (3) requested that use of trademark's in the specification should be capitalized and accompanied by the generic terminology.
- (4) rejected claims 1-5 under 35 U.S.C. §101 alleging that the claimed invention is directed to non-statutory subject matter;
- (5) rejected claims 1-5 under 35 U.S.C. §112, first paragraph;
- (6) rejected claims 1-5 under 35 U.S.C. §112, second paragraph; and
- (7) rejected claims 1-5 as being allegedly anticipated by the PaRappa "the Rapper" reference ("Parappa") under 35 U.S.C. §102(b).

With regard to Items 1-3, the attached replacement sheets present amended Figs. 3 and 4. These sheets replace original sheets 3 and 4 which include Figs. 3 and 4. In particular, reference characters "MPD" and "CP1" and "SD" and "PDP" in Fig.3 have been changed as shown in the attached replacement Fig.3, and reference characters "SD" and "PDP" in Fig. 4 have been changed as shown in an attached replacement Fig.4. Please note that the inclusion of reference characters "DPP" in Fig.4, was the result of an inadvertent an error, and should correctly be shown as

reference character "PDP." Also, Applicant respectfully submits that speaker 7 is properly depicted in Figure 2. No new matter is presented as a result of the correction to the Figures. Applicant requests acceptance of the amended drawings and reconsideration and withdrawal of the Examiner's objections to the drawings are requested.

Applicant has amended the Abstract to remove undesirable words, shorten its length, and provide a more clear and concise exposition of the subject matter claimed by this application. The New Abstract is attached to this Amendment on a separate sheet, as requested by the Examiner. Applicant requests reconsideration and withdrawal of Examiner's objection to the abstract. In addition, the specification has been amended so as to properly represent the trademarks of others, as requested by the Examiner.

With regard to Items 4-6, Applicant has amended claims 1, 3-5, added new claim 6, and canceled claim 2. In particular, the claims have been amended so as to make clear that they are directed to a music game program that is stored on a computer readable medium, and that effects the operation of a computing device. As such, claims 1-6 present statutory subject matter. In addition, the claims have been amended so as to correct a variety of idiomatic errors that appear to have been the result of translation from the Japanese language. The storage of a program on a computer readable medium effects a physical transformation of that medium, with a tangible result that has utility in that such a transformed computer readable medium may cause an

otherwise generalized computer to operate upon data in a prescribed manner. Claims 1-6 are statutory, and reconsideration is requested.

With regard to Item 7, Applicant respectfully traverses that Examiner's reliance upon the Parappa reference, and requests reconsideration for the following reasons. Applicant provides a music game program that is stored in a computer readable medium and thereby causes a computer to output music data corresponding to music selected by a player. The player selects the output music data with an input means from a sound output means. The music game program causes the computer to execute a procedure for displaying a background image that corresponds to the music data on a display by providing a music file for storing a plurality of the output music data. The output music data comprises song data that includes words and a melody that corresponds to the words. The song data comprises a plurality of partial song data that are obtained by dividing entire words and the entire melody in a plural number and in a playback order. Each partial song data includes words having one or more characters and melody that corresponds to the words. A demand command computing procedure is provided for (i) reading the output music data that corresponds to the music selected by the player through the input means out of the music file, and (ii) computing a demand command for inviting the player to operate a specific operation key of the input means, so as to correspond to each the partial song data with melody of the read music data. A command image producing procedure is also provided that produces the demand command as a command image corresponding to each of the operation keys of the input means. A command image displaying procedure is also for

displaying the produced command image, so as to be moving on the display in the order of playback of the partial song data, and for setting an operation criterion position at a predetermined position on the display and displaying the operation criterion position. A timing judging procedure is provided for judging whether the operation key was operated with a predetermined timing on the basis of a positional relationship between the command image displayed moving on the display and the operation criterion position. A music playback procedure is also for arithmetically processing the output music data for changing a pitch, at the time of playback of the partial song data, corresponding to the command image from a pitch which is stored in the music file according to a judgment result of an operation timing of the operation key corresponding to each the command image by the timing judging procedure and for outputting through the sound output means. Significantly, the timing judging procedure has an accumulated evaluation value computing procedure for computing time a difference between; (i) a time when the displayed command image moving on the display has passed through the operation criterion position, and (ii) a time the operation key was operated. In this way, an evaluation point is computed so as to correspond to the computed time difference, thereby obtaining an accumulated evaluation value by accumulating the evaluation point for every demand command, and storing the accumulated evaluation value in memory means. No such arrangement is taught or suggested by the Parappa reference.

Anticipation under 35 U.S.C. §102 requires that each and every element of the invention defined in the claim be met in a single prior art reference. Those elements

must either be inherent or disclosed expressly, and must be arranged as described in the claim. See, Diversitech Corporation v. Century Steps, Inc., 850 F. 2d 675, 7 U.S.P.Q. 2d 1315 (Fed. Circuit 1988), Constant v. Advanced Micro-Devices, Inc., 848 F. 2d 1560, 7 U.S.P.Q. 2d 1057 (Fed. Circuit 1988), and Richardson v. Suzuki Motor Company, 868 F. 2d 1226, 9 U.S.P.Q. 2d 913 (Fed. Circuit 1989). Nowhere within the four corners of the Parappa reference is there disclosure or even a vague suggestion of a timing judging procedure that has an accumulated evaluation value computing procedure for computing time a difference between; (i) a time when the displayed command image moving on the display has passed through the operation criterion position, and (ii) a time the operation key was operated so that an evaluation point is computed so as to correspond to the computed time difference, thereby obtaining an accumulated evaluation value by accumulating the evaluation point for every demand command, as defined in amended independent claims 1 and 5. Accordingly, it cannot be said that the Parappa reference anticipates Applicant's invention as claimed in amended independent claims 1 and 5, or dependent claims 3-4 and 6.

These distinctions are quite important, for they reflect significant differences in process and functionality between Applicant's claimed invention and the methods taught in Parappa. More particularly, since Applicant's procedure includes an accumulated evaluation value computing procedure for computing time difference between a time the command image is displayed moving on a display passed through the operation criterion position and a time the operation key is operated, for computing an evaluation point so as to correspond to a computed time difference, and obtaining an accumulated

evaluation value by accumulating said evaluation point every demand command, whether or not the key operation by the player is superior or inferior by the accumulated evaluation value can be objectively judged, thereby improving a player's overall interest in the computer game. In addition, the time difference at the time when the operation key is operated is computed, and the evaluation point corresponding to the computed time difference is accumulated every demand command. Therefore, the time difference can be correctly accumulated for every key operation by the player, and a fair and correct comparison between players is made possible. This aspect of Applicant's invention is nowhere to be found in the Parappa reference. Additionally, Parappa utterly fails to teach or suggest a pitch that is merely changed on the basis of the delay of the operation key (or too fast operation), so that Parappa's procedure makes it difficult to objectively judge a superiority or inferiority between the players.

In view of the foregoing, Applicant respectfully submit that claims 1-6 are in condition for allowance. Favorable reconsideration is therefore respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appln. No. 10/828,664  
Docket No. D5620-00055  
Response to official action of October 23, 2007

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicant's undersigned Attorney invites the Examiner to telephone him at **215-979-1255**.

Respectfully Submitted,

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